

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CARL MELTON, SR. *

Plaintiff, *

v. * 2:07-CV-1105-WKW
(WO)

CAPT. LARRY NIXON, *et al.*, *

Defendants. *

RECOMMENDATION OF THE MAGISTRATE JUDGE

Plaintiff filed this 42 U.S.C. § 1983 action on December 20, 2007. At the time he filed this complaint, Plaintiff was incarcerated at the Autauga Metro Jail located in Prattville, Alabama. On December 28, 2007 the envelope containing Plaintiff's copy of an order filed December 21, 2007 was returned to the court marked "Return to sender," because Plaintiff was no longer at the address he had provided to the court.

As a result of Plaintiff's mail being returned to the court, the undersigned entered a show cause order on January 8, 2008 directing Plaintiff to provide the court with his present address. (*Doc. No. 10.*) Plaintiff was cautioned that his failure to comply with the court's January 8 order would result in a recommendation that this case be dismissed. (*Id.*) On January 11, 2008 the envelope containing Plaintiff's copy of the court's January 8, 2008 show cause order was returned to the court marked as undeliverable. As it appears clear that Plaintiff is no longer residing at the most recent address he provided to the court and that he

has not provided this court with a new address, the undersigned concludes that dismissal of the complaint at this juncture is appropriate.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice for Plaintiff's failures to prosecute this action properly and to comply with the orders of this court.

It is further

ORDERED that the parties are DIRECTED to file any objections to the Recommendation on or before **February 6, 2008**. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which a party objects. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar the party from a *de novo* determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (*en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on

September 30, 1981.

Done, this 22nd day of January 2008.

/s/Terry F. Moorer
TERRY F. MOORER
UNITED STATES MAGISTRATE JUDGE